

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
S/S Mount Vista Road 1800' * ZONING COMMISSIONER
SE Harford Road *
(6433 Mount Vista Road) * OF BALTIMORE COUNTY
11th Election District *
6th Councilmanic District * CASE # 89-489-SPH
Beachmont, Inc.
petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a Special Hearing to approve an amendment to the site plan in zoning case #75-83X to permit a 36' x 40' enclosed addition to the existing 36' x 72' open pavilion, as more particularly described on Petitioner's Exhibit 2.

The Petitioner, by Gilbert Thompson, Secretary for Beachmont, Inc. and Paul T. Twining, Director for said corporation, appeared and testified. Also appearing on behalf of the Petitioner were Mr. R.D. Standiford, Mr. and Mrs. William E. Akehurst, Reverend and Mrs. Charles J. Gyle, Mary Frances Shepperd, Nancy L. Hastings, Katherine and Diane Baumann, Carre Smith, Mr. and Mrs. Robert Tranter, Mary Lou Waters, JoAnn Hoffmann, Mr. Todd H. Twining, Beverly and Jennifer Twining and Lisa Nordone. There were no Protestants.

Testimony indicated that the subject property, commonly known as the Beachmont Christian Camp, is zoned R.C.5 and is improved with community buildings, a swimming pool, a pavilion and recreation areas. Mr. Twining testified that the staff at Beachmont, Inc. is desirous of constructing a closed addition on the existing pavilion which is located on the southeast portion of the subject property. The purpose of said addition is to provide shelter for the camp's patrons during summer storms and to provide housing for the camp's arts and crafts activities. Mr. Twining testified

that Petitioner's request will not expand the camps programs or increase the number of patrons utilizing the facility, but will merely provide a safe shelter during inclement weather and accommodate the arts and crafts activities. Additionally, Mr. Twining represented that he has met with members of the surrounding community and there were no objections to the requested enclosed addition.

Testimony indicated that numerous improvements have been made to the local environment. Some of the benefits to the community are seeding, tree planting, grading to eliminate runoff and improved land use. Additionally, testimony indicated that the facility serves such groups as the Maryland School for the Blind, the Boy and Girl Scouts of America, as well as children in the immediate community.

Both Messrs. Twining and Thompson testified that, in their opinion, the conditions delineated in Section 502.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) will be satisfied by the requested modification. Mr. Twining further testified that the requested addition will not result in any detriment to the health, safety, or general welfare of the community.

It is clear that the B.C.Z.R. permits the use proposed in an R.C.5 zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined whether the conditions as delineated by Section 502.1 are satisfied by the Petitioner.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1. In fact, the Petitioner has shown that the proposed use would be conducted without real detriment to

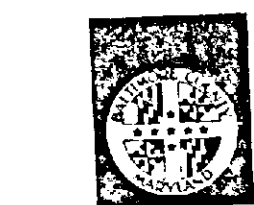
-2-

ORDER RECEIVED FOR FILING
Date 7/14/89
By M. J. Clark

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

July 10, 1989



Dennis F. Rasmussen
County Executive

Mr. Paul T. Twining, Director
Beachmont, Inc.
6433 Mount Vista Road
Kingsville, Maryland 21087

Mr. Gilbert L. Thompson
Beachmont, Inc.
6433 Mount Vista Road
Kingsville, Maryland 21087

RE: Case No. 89-489-SPH
Beachmont, Inc.

Gentlemen:

Enclosed please find the decision rendered in the above captioned case. The Petition for Special Hearing has been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,
J. Robert Haines
Zoning Commissioner

JRH:mmm

cc: Peoples Counsel

cc: Mr. R.D. Standiford, 12410 Regwood Rd. Hydes, Md. 21082
cc: Mr. and Mrs. William E. Akehurst, 4411 E. Joppa, Perry Hall, Md. 21128
cc: Reverend and Mrs. Charles J. Gyle, 2905 Evergreen Ave., Balto. Md. 21214

page 2.....

cc: Mary Frances Shepperd, Box 95, Kingsville, Md. 21087
cc: Nancy L. Hastings, 7714 Buck Hill Rd. Kingsville, Md. 21087
cc: Katherine and Diane Baumann, 11906 Cedar Lane, Kingsville, Md. 21087
cc: Carre Smith, 1345 N. Bend Road, Jarrettsville, Maryland 21084
cc: Mr. and Mrs. Robert Tranter, 12124 Harford Rd., Glen Arm, Md. 21057
cc: Mary Lou Waters, 13820 Manor Glen Rd. Baldwin, Md. 21013
cc: JoAnn Hoffmann, 6433 Mt. Vista Rd., Kingsville, Md. 21087
cc: Mr. and Mrs. Todd H. Twining, 6433 Mt. Vista Rd., Kingsville, Md.
cc: Lisa Bordone, 1901 Carrs Mill Rd. Fallston, Md. 21047

PETITION FOR SPECIAL HEARING
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 506.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve

An amendment to the site plans and zoning case #75-83X to permit a 36' x 40' enclosed addition to our existing 36' x 72' open pavilion.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Paul T. Twining, Director
(Type or Print Name)
Signature: Paul T. Twining
Address: Gilbert L. Thompson, Secretary
(Type or Print Name)
City and State: Baltimore, Maryland
Attorney for Petitioner: 6433 Mt. Vista Road 592-8768
(Type or Print Name) Address Phone No.
Kingsville, Maryland
Signature: City and State
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
City and State Name
Attorney's Telephone No.: Address Phone No.

ORDER RECEIVED FOR FILING
Date 7/14/89
By M. J. Clark

ORDERED By The Zoning Commissioner of Baltimore County, this 26th day of April, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 108, County Office Building in Towson, Baltimore County, on the 31st day of May, 1989, at 2 o'clock P.M.

J. Robert Haines
Zoning Commissioner of Baltimore County

ESTIMATED LENGTH OF HEARING 1/2HR.
AVAILABLE FOR HEARING
MON./TUES./WED. - NEXT TWO MONTHS
ALL OTHERS
REVIEWED BY: M. J. Clark DATE 7/14/89

the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A2d 1319 (1981).

It is clear from the testimony that if the relief is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety and general welfare.

After reviewing all of the testimony and evidence presented, it appears that the Special Hearing should be granted, with certain restrictions, as more fully described below.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 10th day of July, 1989 that the Petition for Special Hearing to approve the enclosed addition to a pavilion, and an amendment to the previously approved site plans in Zoning case #75-83X, all in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and

IT IS FURTHER ORDERED that all prior zoning Orders and restrictions contained therein, pertaining to the subject property, shall be incorporated in their entirety herein, retaining full force and effect except as otherwise amended herein. All relief granted herein is subject to the restrictions aforementioned and the restriction set forth below.

1. The Petitioner may apply for its building permit and be granted same upon receipt of this

-3-

ORDER RECEIVED FOR FILING
Date 7/14/89
By M. J. Clark

Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

J. Robert Haines
Zoning Commissioner for
Baltimore County

JRH:mmm
cc: Peoples Counsel

cc: Mr. R.D. Standiford, 12410 Regwood Rd. Hydes, Md. 21082
cc: Mr. and Mrs. William E. Akehurst, 4411 E. Joppa, Perry Hall, Md. 21128
cc: Reverend and Mrs. Charles J. Gyle, 2905 Evergreen Ave., Balto. Md. 21214
cc: Mary Frances Shepperd, Box 95, Kingsville, Md. 21087
cc: Nancy L. Hastings, 7714 Buck Hill Rd. Kingsville, Md. 21087
cc: Katherine and Diane Baumann, 11906 Cedar Lane, Kingsville, Md. 21087
cc: Carre Smith, 1345 N. Bend Road, Jarrettsville, Maryland 21084
cc: Mr. and Mrs. Robert Tranter, 12124 Harford Rd., Glen Arm, Md. 21057
cc: Mary Lou Waters, 13820 Manor Glen Rd. Baldwin, Md. 21013
cc: JoAnn Hoffmann, 6433 Mt. Vista Rd., Kingsville, Md. 21087
cc: Mr. and Mrs. Todd H. Twining, 6433 Mt. Vista Rd., Kingsville, Md.
cc: Lisa Bordone, 1901 Carrs Mill Rd. Fallston, Md. 21047

ORDER RECEIVED FOR FILING
Date 7/14/89
By M. J. Clark

-4-

GERHOLD, CROSS & ETZEL
Registered Professional Land Surveyors
412 DELAWARE AVENUE
TOWSON, MARYLAND 21204
823-4470

GERHOLD, CROSS & ETZEL
Registered Professional Land Surveyors
412 DELAWARE AVENUE
TOWSON, MARYLAND 21204
823-4470

August 23, 1983

All that piece or parcel of land situate, lying and being in the Eleventh Election District of Baltimore County, State of Maryland and described as follows to wit:

Beginning for the same in the center of Mt. Vista Road at a point distant 1800 feet measured along the center of Mt. Vista Road from the center of Harford Road, and running thence and binding in the center of Mt. Vista Road South 50 degrees 17 minutes 40 seconds East 30.14 feet, thence leaving said road and binding on the land of the petitioners herein, the following courses and distances viz: South 34 degrees 12 minutes 20 seconds West 43.56 feet, North 55 degrees 47 minutes 40 seconds West 5.00 feet, South 34 degrees 12 minutes 20 seconds West 214.66 feet, South 32 degrees 13 minutes 50 seconds West 466.84 feet, North 36 degrees 05 minutes West 1164.64 feet, North 38 degrees 19 minutes West 196.15 feet, North 50 degrees 02 minutes West 775.33 feet, South 34 degrees 13 minutes East 978.57 feet, North 9 degrees 22 minutes 116 feet South 22 degrees 48 minutes West 373.40 feet, North 69 degrees 54 minutes 30 seconds West 160.75 feet, south 26 degrees 10 minutes 10 seconds 191 feet, North 70 degrees 50 minutes 50 seconds West 72.77 feet, North 32 degrees 13 minutes 50 seconds East 466.60 feet, North 34 degrees 12 minutes 20 seconds East 215 feet, North 55 degrees 47 minutes 40 seconds West 5.0 feet, North 34 degrees 12 minutes 20 seconds 46.44 feet to point of beginning.

Containing 21.5 Acres of land more or less.

Note: Compiled from information, deeds, and letters of May 10th, 1974, and July 6th, 1983.



PLEASE PRINT CLEARLY PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
R.D. STANDFORD	1210 REGWOOD RD, HYDE, MD 21082
William E. Akehurst	441 E. Joppa Rd. Perry Hall, MD 21128
Lois K. Ehrhart	441 E. Joppa Rd. Perry Hall, MD 21128
CHARLES J. GYDE	2905 EVERGREEN AVE. BALTO, MD 21214
Barbara Gyle	2905 EVERGREEN AVE. BALTO, MD 21214
Marjorie H. Heston	7714 Buck Hill Rd. Kingsville, MD 21087
Marjorie H. Heston	7714 Buck Hill Rd. Kingsville, MD 21087
Elizabeth Baumann	1111 S. Pine St. Kingsville, MD 21087
Alison Baumann	1111 S. Pine St. Kingsville, MD 21087
Carl Smith	1345 N. BEND RD. BALTIMORE, MD 21204
Robert Tronier	12124 HARWOOD RD. GREEN HAVEN, MD 21045
Kathy Tronier	12124 HARWOOD RD. GREEN HAVEN, MD 21045
Mary Kay Waters	13200 Manor Glen Rd. Baltimore, MD 21204
John Hoffman	6433 Mt. Vista Rd. Kingsville, MD 21087
Beverly Twining	6433 Mt. Vista Rd. Kingsville, MD 21087
Janet K. Twining	6433 Mt. Vista Rd. Kingsville, MD 21087
David Twining	6433 Mt. Vista Rd. Kingsville, MD 21087
Ann Twining	6433 Mt. Vista Rd. Kingsville, MD 21087

RE: PETITION FOR SPECIAL HEARING : BEFORE THE ZONING COMMISSIONER
S/S Mt. Vista Rd., 1800' SE
Harford Rd. (6433 Mt. Vista Rd.) : OF BALTIMORE COUNTY
11th Election District;
6th Councilmanic District
BEACHMONT, INC., Petitioner : Case No. 89-489-SPH

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 304, County Office Building
Towson, Maryland 21204
887-2188

I HEREBY CERTIFY that on this 19th day of May, 1989, a copy of the foregoing Entry of Appearance was mailed to Paul T. Twining, Director, and Gilbert L. Thompson, Secretary, Beachmont, Inc., 6433 Mt. Vista Rd., Kingsville, MD 21087, Petitioner.

Peter Max Zimmerman
Peter Max Zimmerman

CERTIFICATE OF PUBLICATION

TOWSON, MD. May 12, 1989
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on May 11, 1989.

NORTHEAST TIMES
THE JEFFERSONIAN.

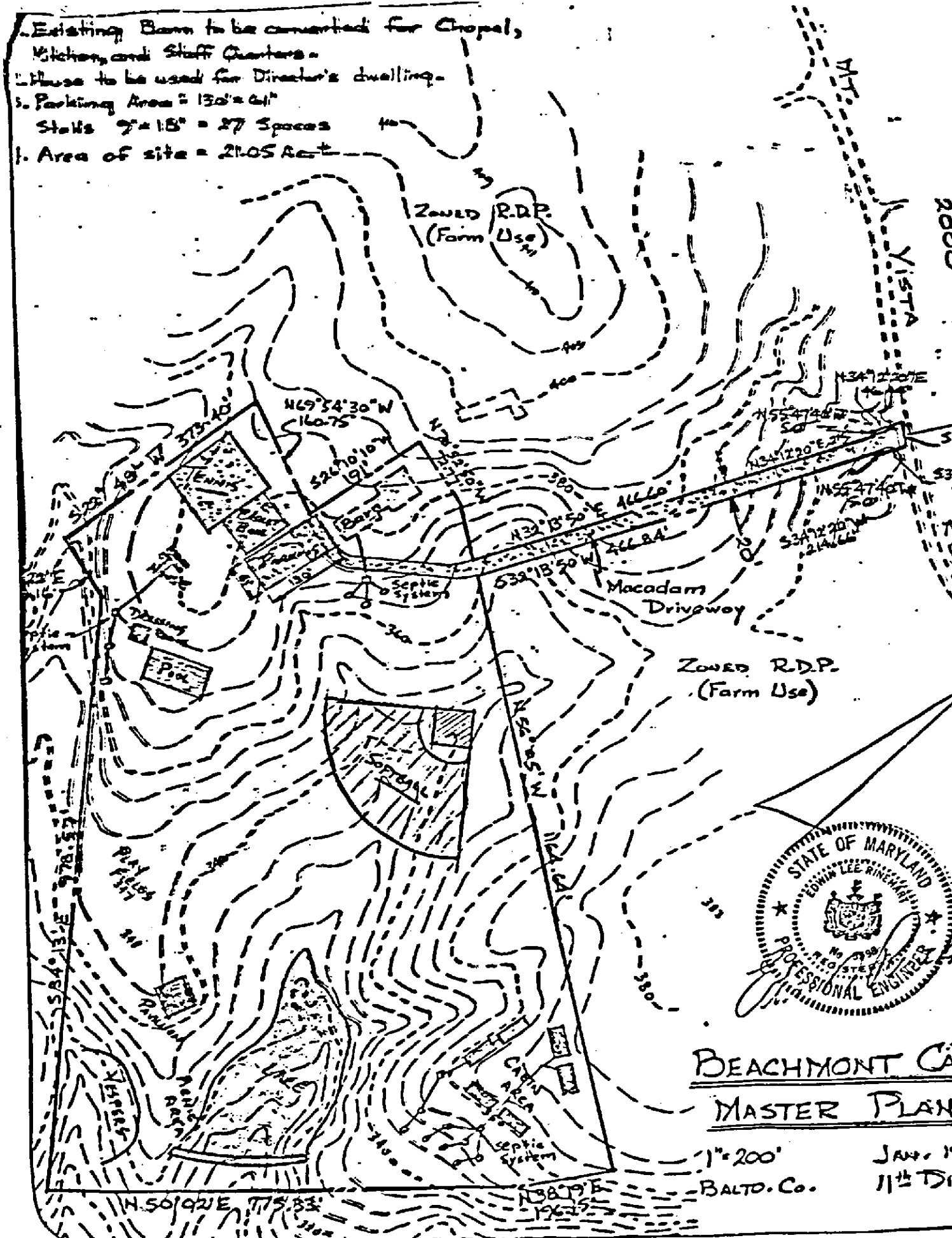
S. Lake Owen
Publisher

PO 12494
NY 128964
CO 89-489-SPH
price \$ 74.86

CERTIFICATE OF POSTING

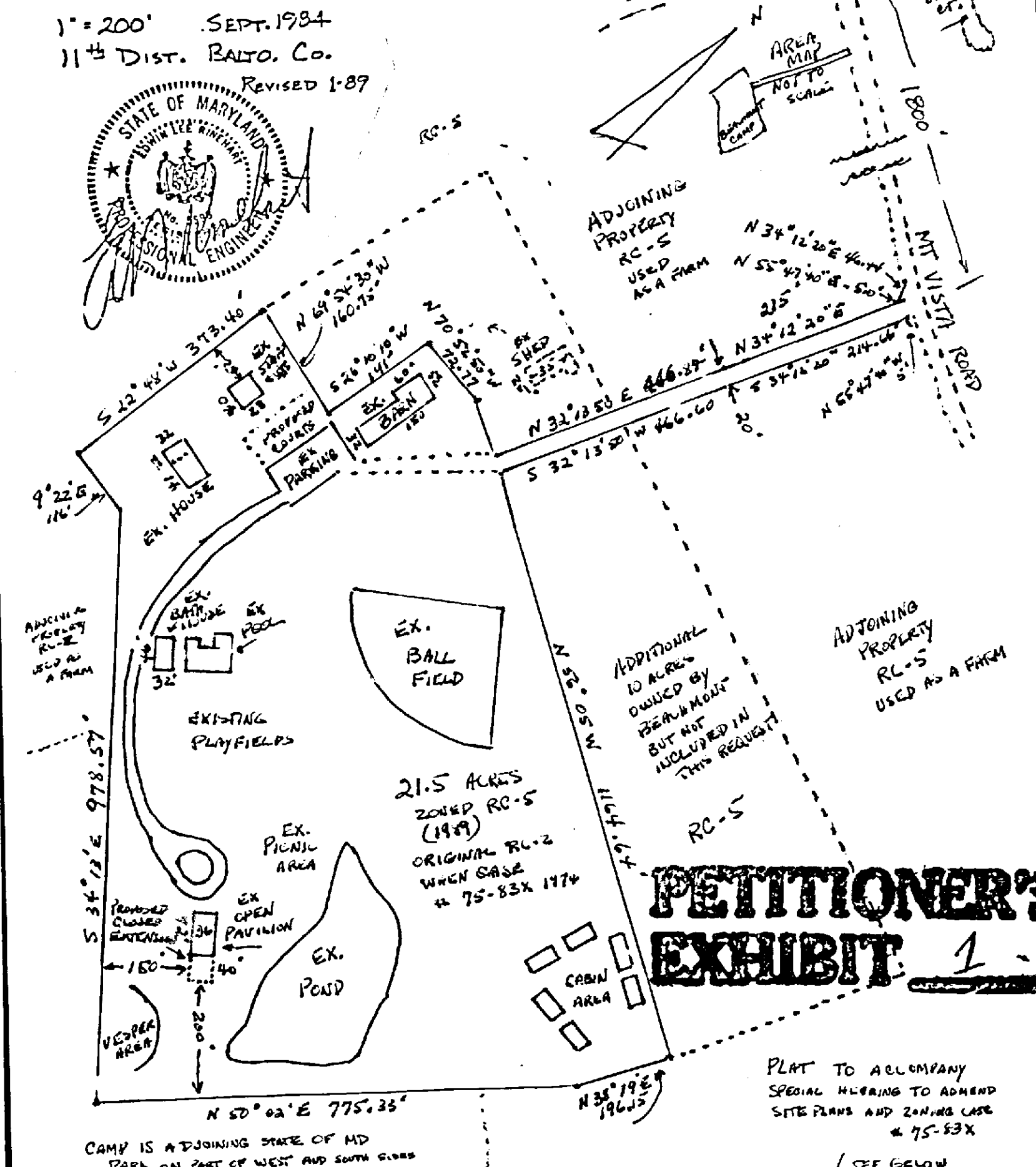
District: 11th Date of Posting: 5/11/89
Posted for: Special Hearing
Petitioner: Beachmont, Inc.
Location of property: 3/4 MT. VISTA RD., 1800' SE Harford Rd.
6433 MT. VISTA RD.
Location of Sign: Along Mt. Vista Rd. approx. 35' E
7200 sq. ft. approx. 1/4 of P.L. 1000
Remarks: M. Twining
Posted by: M. Twining Date of return: 5/11/89
Number of Signs: 1

COPY OF ORIGINAL APPROVED FOR SPECIAL EXCEPTION - OCT. 22, 1974



IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 22 day of October, 1974, that a Special Exception for community buildings, swimming pools, structural or land uses devoted to civic, social, recreational, or educational activities should be and the same is GRANTED, from and after the date of this Order, subject to: 1) not more than 250 persons using the barn or proposed chapel area as indicated on the plat, 2) not more than 150 persons camping on the property at any one time; and 3) approval of a site plan by the State Highway Administration, the Department of Public Works, and the Office of Planning and Zoning.

BEACHMONT CAMP MASTER PLAN



PETITIONER'S EXHIBIT 1

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 22 day of October, 1974, that a Special Exception for community buildings, swimming pools, structural or land uses devoted to civic, social, recreational, or educational activities should be and the same is GRANTED, from and after the date of this Order, subject to: 1) not more than 250 persons using the barn or proposed chapel area as indicated on the plat, 2) not more than 150 persons camping on the property at any one time; and 3) approval of a site plan by the State Highway Administration, the Department of Public Works, and the Office of Planning and Zoning.

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
484-3433 EST-4453
J. Robert Haines
Zoning Commissioner

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Special Hearing
CASE NUMBER: 89-489-SPH
S/S Mt. Vista Road, 1800' SE Harford Road
6433 Mt. Vista Road
11th Election District - 6th Councilmanic
Petitioner(s): Beachmont, Inc.
HEARING SCHEDULED: WEDNESDAY, MAY 31, 1989 at 2:00 p.m.

Special Hearings An amendment to the site plans and zoning case #7583-X to permit a 36 ft. x 40 ft. enclosed addition to our existing 36 ft. x 72 ft. open pavilion.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: Beachmont, Inc.
File

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353
J. Robert Haines
Zoning Commissioner

Date: 5/12/89



Beachmont, Inc.
6433 Mt. Vista Road
Kingsville, Maryland 21087
ATTN: PAUL T. TWINING, DIRECTOR

Re: Petition for Special Hearing
CASE NUMBER: 89-489-SPH
S/S Mt. Vista Road, 1800' SE Harford Road
6433 Mt. Vista Road
11th Election District - 6th Councilmanic
Petitioner(s): Beachmont, Inc.
HEARING SCHEDULED: WEDNESDAY, MAY 31, 1989 at 2:00 p.m.

Dear Petitioner:
Please be advised that \$ 89.86 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204 (15) minutes before

BALTIMORE COUNTY, MARYLAND		OFFICE OF FINANCE REVENUE DIVISION		MISCELLANEOUS CASH RECEIPT	
DATE: 5/11/89	ACCOUNT: 211-1510-100	AMOUNT: \$ 89.86	FOR: TWINING, PAUL T. (CASE 89-489-SPH)	ISSUED BY: J. Robert Haines	RECEIVED BY: Paul T. Twining
VALIDATION OR SIGNATURE OF CASHIER				SIGNATURE OF PETITIONER	

Previous Case

Date	Description	Decision
85-245-X	S/S Mt. Vista Rd., 1800' SE of Harford Rd. (6433 Mt. Vista Rd.) 11th Elec. Dist.	
1/30/85	Petition for Special Exception (for a camp, day camp, uses accessory thereto, etc.) - filing fee \$100.00 - Beachmont, Inc.	
1/30/85	Hearing set for 3/4/85, at 11:30 a.m.	
3/7/85	Advertising and Posting - \$51.26	
3/7/85	Ordered by the Zoning Commissioner that the Petition for Special Exception with accessory uses thereto and the amendment to the special exception granted in Case No. 75-83-X to delete Restrictions 1 and 2 and the site plan filed and approved therein to allow the proposed expansion are GRANTED with restrictions.	
4/2/85	Appeal filed by Protestants/Appellants, B. Scott Striebinger, et al, to the Circuit Court for Baltimore County.	
11/5/85	Ordered by the County Board of Appeals that the Petition for Special Exception for a camp with accessory uses thereto and the amendment to the special exception granted in Case No. 75-83-X to allow the proposed expansion are GRANTED with restrictions and any appeal from this decision must be in accordance with Rules 8-13 through 8-15 of the Maryland Rules of Procedure.	
12/6/85	Appeal filed by Protestants/Appellants, Scott and Judy Striebinger, et al, to the Circuit Court for Baltimore County.	
11/20/85	Memorandum and Order of Circuit Court for Baltimore County (Judge A. Owen Hennegan) AFFIRMING the decision of the Baltimore County Board of Appeals and ORDERING Appellants to pay the costs.	
12/17/85	Order for Appeal of Protestants/Appellants, Scott and Judy Striebinger, et al, to Court of Special Appeals of Maryland.	
85-246-A	Reg. 437' S of the c/l of Circle Rd., .4 miles SE of Burton Rd. (1846 Circle Rd.) 9th Elec. Dist.	
1/4/85	Petition for Variance - filing fee \$35.00 - T. Talbott Bond, et ux	
1/4/85	Hearing set for 3/5/85, at 9:30 a.m.	
3/5/85	Advertising and Posting - \$47.91	
3/26/85	Ordered by the Deputy Zoning Commissioner that the Variance is GRANTED.	

85-245-X 11th Dist
 Petition filed: January 30, 1985
 Petitioner: Beachmont, Inc.
 Location: S/S Mt. Vista Rd., 1800' SE of Harford Rd.
 (6433 Mt. Vista Road)
 Special Exception for camp, day camp, uses accessory thereto, to amend Case No. 75-83-X, remove restrictions no. 1 and 2 and to clarify uses permitted by said special exception

89-499-SPH
 BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
 111 W. Chesapeake Avenue
 Towson, Maryland 21204

Your petition has been received and accepted for filing this
 26th day of April, 1989.

J. Robert Haines
 J. ROBERT HAINES
 ZONING COMMISSIONER

Petitioner Paul T. Twining, et al
 Received by: James E. Dyer
 Chairman, Zoning Plans
 Advisory Committee

448
 COMPARISON OF ORIGINAL PLAT SQ FT & BLDES

BARN, CHAPEL, ACTIVITIES CENTER
 $32' \times 150' = 4800 \text{ sq ft}$
 $20' \times 60' = 1200 \text{ sq ft}$
 Bath HOUSE
 $32' \times 46' = 1472$
 SHED OR STORAGE
 $25' \times 35' = 875$
 EXISTING HOUSE
 $32' \times 63' = 2016$
 EXISTING STAFF QTS
 $26' \times 40' = 1040$
 6 CABINS (24'x42' each)
 $= 6048$
 OPEN PAVILION
 $36' \times 72' = 2592$
 TOTAL 20,043 sq ft
 New CLOSED PAVILION ADDITION
 $36' \times 40' = 1440 \text{ sq ft}$
 OR A 7% CHANGE

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

May 18, 1989

COUNTY OFFICE BLDG.
 111 W. Chesapeake Ave.
 Towson, Maryland 21204

000

MEMBERS
 Bureau of Engineering
 Department of Traffic Engineering
 State Roads Commission
 Bureau of Fire Prevention
 Health Department
 Project Planning
 Building Department
 Board of Education
 Zoning Administration
 Industrial Development

Mr. Paul T. Twining
 Director
 6433 M. Vista Road
 Kingsville, MD 21087

RE: Item No. 448, Case No. 89-499-SPH
 Petitioner: Paul T. Twining, et al
 Petition for Special Hearing

Dear Mr. Twining:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of comments are not intended to indicate that all parties are the zoning action requested, but to assure that the development made aware of plans or problems with regard to the development plans that may have bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer
 JAMES E. DYER
 Chairman
 Zoning Plans Advisory Committee

JED:jw

Enclosures

Baltimore County
 Department of Public Works
 Bureau of Traffic Engineering
 Courts Building, Suite 405
 Towson, Maryland 21204
 (301) 887-3334

April 25, 1989



Dennis F. Rasmussen
 County Executive

Mr. J. Robert Haines
 Zoning Commissioner
 County Office Building
 Towson, MD 21204

Dear Mr. Haines

The Bureau of Traffic Engineering has no comments for items number 424, 425, 426, 427, 428, 429, 430, 431, 432, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, and 448.

Very truly yours,

Michael S. Flanigan
 Michael S. Flanigan
 Traffic Engineer Assoc. II

MSF/lab

RECEIVED
 APR 29 1989

ZONING OFFICE

Baltimore County
 Fire Department
 800 York Road
 Towson, Maryland 21204-2536
 (301) 887-4500

Paul H. Reinke
 Chief

J. Robert Haines
 Zoning Commissioner
 Office of Planning and Zoning
 Baltimore County Office Building
 Towson, MD 21204



Dennis F. Rasmussen
 County Executive

RE: Property Owner: Beachmont, Inc.
 Location: S/S Mt. Vista Road, 1,800' SE Harford Road
 (6433 Mt. Vista Road)

Item No.: 448 Zoning Agenda: April 25, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: *Paul H. Reinke* Noted and Approved
 Planning Group
 Special Inspection Division

APR 28 1989

BALTIMORE COUNTY, MARYLAND INTEROFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: May 17, 1989
 FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting
 for April 25, 1989

The Developers Engineering Division has reviewed the zoning items for the subject meeting and we have no comments for Items 424, 425, 427, 428, 429, 430, 431, 432, 435, 437, 439, 440, 441, 442, 443, 444, 445, 447, and 448. Comments are attached for Items 426, 434, 436, 438 and 446.

Robert W. Bowling
 ROBERT W. BOWLING, P.E., Chief
 Developers Engineering Division

RWB:s

Encls.

MANDATE Court of Special Appeals

No. 1686, September Term, 1986

Scott Strienbinger et al
 v.
 Beachmont, Inc.

JUDGMENT: July 6, 1987: Per Curiam filed.
 Judgment reversed; costs to be paid by appellee.
 August 5, 1987: Appellee's Motion for Reconsideration.
 August 10, 1987: Answer to Motion for Reconsideration filed by appellant counsel.
 August 31, 1987: Motion for Reconsideration and modification of opinion granted.
 September 1, 1987: Mandate issued.

STATEMENT OF COSTS:

In Circuit Court: for BALTIMORE COUNTY
 85CG3878
 Record..... 40.00
 In Court of Special Appeals:
 Filing Record on Appeal..... 50.00
 Printing Brief for Appellant..... 183.40
 Portion of Record Extract-Appellant.... 1663.60
 Printing Brief for Appellee..... 124.80

STATE OF MARYLAND, Sci:

I do hereby certify that the foregoing is truly taken from the records and proceedings of the said Court of Special Appeals. In testimony whereof, I have hereunto set my hand as Clerk of the Court of Special Appeals, this First day of September A.D. 19 87

COSTS SHOWN ON THIS MANDATE ARE TO BE SETTLED BETWEEN COUNSEL AND NOT THROUGH THIS OFFICE

UNREPORTED
 IN THE COURT OF SPECIAL APPEALS
 OF MARYLAND

No. 1686
 September Term, 1986

SCOTT STRIENBINGER, ET AL

v.

BEACHMONT, INC.

Weant
 Bishop
 Bell, Rosalyn B., JJ.

PER CURIAM

Filed: July 6, 1987

Appellee Beachmont, Inc. filed a Petition for Special Exceptions requesting that the Zoning Commissioner of Baltimore County permit appellee to expand its seasonal camp into a year-round operation by making numerous improvements on the subject property, "including but not limited to: cabins, overnight lodges, director's house, staff house, activities building, swimming pools, pavilions, and bath houses, etc." On March 7, 198., the Zoning Commissioner granted the special exception. Appellants, who are several landowners neighboring the subject property,¹ appealed the decision first to the County Board of Appeals and then to the Circuit Court for Baltimore County. In each instance, the Zoning Commissioner's decision was affirmed.

FACTS

Since 1974, appellee has operated a Christian camp in Baltimore County on approximately twenty acres. The land is located in an area zoned R.C.2., in which "agricultural operations" is the "[p]referred use permitted as matter of right." Baltimore County Zoning Regulation § 1A01.2A [hereinafter referred to as BCZR]. Although this zoning classification

¹They are Scott and Judy Strienbinger, Walter and Dorothy Dunsmore, Robert Long, Leroy Hone, and William and Phyllis Swift.

precludes, as a matter of right, the use of the subject property as a camp, appellee applied for and received a special exception to use the property as a camp. In granting appellee's request, the Zoning Commissioner imposed several limitations:

- 1) not more than 250 persons using the barn or proposed chapel area as indicated on the plat,
- 2) not more than 150 persons camping on the property at any one time, and
- 3) approval of a site plan by the State Highway Administration, the Department of Public Works, and the Office of Planning and Zoning.

Pursuant to the Commission's approval, appellee has made numerous site improvements, including the construction of a swimming pool, pavilion and other recreational facilities.

Beachmont has operated a day camp for children during the summer. Children from the ages of three to four attend daily from 10:00 a.m. to 2:00 p.m., while older children from the ages of five to twelve attend from 10:00 a.m. to 4:00 p.m. At present, approximately 160 children participate in these two-week sessions.

In addition to the summer day camp, appellee sponsors various church-related activities. The camp's season begins with an Easter Sunrise Service in the spring of each year. Throughout the summer and fall, the campgrounds are available to local churches for picnics and other outings. On the July Fourth

holiday, Beachmont also provides an all day family picnic. In 1985, about 250 to 300 people attended.

Since the camp's purpose is to promote Christian fellowship and principles, Beachmont imposes strict standards for guests using the facilities. No radios or tape players are allowed. Alcoholic beverages and drug use are strictly prohibited. Beachmont enforces a 10:00 p.m. curfew.

Desiring to expand both the size of the camp and the frequency of its use, appellee acquired an additional thirteen acres of land, contiguous to the existing campgrounds, and filed a second Petition for Special Exception on January 30, 1985. In that petition, appellee requested permission to build a multipurpose activities building containing a gymnasium and dining facility; three dormitory lodges, each housing sixty people; three primitive-style cabins, each holding twenty to thirty people; a staff house; director's house; bath houses; and various recreational improvements such as a volleyball court and horseshoe pit. In addition, the petition sought the removal of the first two limitations set out in the 1974 special exception, relating to the number of persons allowed to use the barn or proposed chapel at one time and the number of persons permitted to camp on the subject property at any one time.

Unlike the first petition, appellee encountered considerable opposition to the request to expand the camp's size and frequency of use. After receiving both expert and lay testimony concerning the effects of the proposed expansion, the Zoning Commissioner granted the petition subject to certain restrictions:

- 1) any and all outdoor activities of the camp will have a 10:00 p.m. curfew, and will be conducted so as not to disturb the quiet enjoyment of their own property by the neighbors.
- 2) the site will provide a minimum of 120 parking spaces and except for the specific occasions as set forth in Item No. 3 there may not be more vehicles on the property than those number of spaces provided,
- 3) a camp may conduct services or activities, e.g., Easter Sunrise Services, a maximum of three (3) times per year during which the provisions of Item No. 2 are waived.
- 4) at any activity where more than 50 vehicles are present on site, the camp will provide a trained traffic professional to assist in the entry and exit of vehicles to and from the property.
- 5) the camp will submit a revised site plan, in conformance with Petitioner's Exhibit No. 4 and all improvements will be consistent thereto.

The Commissioner's Authority

Before addressing the merits of the second issue, we note that appellants failed to preserve it for appeal. Specifically, they failed to argue, and neither the County Board of Appeals nor the circuit court decided, whether the Zoning Commissioner exceeded his authority under BCZR § 2A01.2.C. Since appellate rules of procedure prohibit parties from raising issues for the first time on appeal, Md. Rule 1085; C.S. Bowen v. Maryland National Bank, 36 Md. App. 26 (1977); Washington Homes, Inc. v. Bogett, 23 Md. App. 167 (1974), we normally would decline to address an unpreserved issue. An issue involving delegation of power, however, is one of such fundamental importance that a reviewing court should consider it even when the parties failed to litigate the issue at the trial level. See, e.g., Board of Trustees of Howard County Community College v. John K. Ruff, Inc., 278 Md. 580, 583 (1976) (holding that reviewing court must address sovereign immunity issue even though defendant had not raised that issue below); Smith v. Biddle, 188 Md. 315, 318 (1947) (holding that reviewing court "will inquire into the [unpreserved] question of whether a contract sought to be specifically enforced is in the form that the law requires"); Webb v. Baltimore Commercial Bank, 181 Md. 572, 577 (1943) (holding that appellate court must make a legal determination of whether plaintiff has sufficient interest in the subject matter of the suit to sustain a bill in equity, even though no point was made in demurrer, briefs or oral argument);

On appeal to this Court, appellants challenge the Board's action on three grounds:

I. There was a substantial change in the facts and circumstances between the first decision, with its restrictions, and the second case justifying the decisions of the Baltimore County Board of Appeals and the circuit court.

II. The Zoning Commissioner and the County Board of Appeals exceeded their authority in granting the special exception for the many uses contained in the petition, which are not listed among the permitted uses as a right or by special exception in the R.C.2 zone.

III. Appellee failed to present sufficient evidence to the Board so as to render its decision granting Beachmont's petition for special exception fairly debatable.

Because the second issue is dispositive of this case, we will not address the other two issues.

Schiff v. Solomon, 57 Md. 572 (1882) (holding that since the statute did not authorize joint insolvency proceedings against several persons or partners, the Court will address this deficiency, apparent on the record, even though parties did not raise the point below); Tuxedo Cheverly Volunteer Fire Company, Inc. v. Prince George's County, 39 Md. App. 322, 327-28 (1978) (reviewing issue of validity of contract in specific performance action, even though the court below did not decide the issue).

The power of the Zoning Commissioner and the County Board of Appeals to grant the special exception is statutory and can be exercised only to the extent and in the manner directed by the enabling statute. Harbor Island Marina, Inc. v. Board of County Commissioners of Calvert County, 286 Md. 303, 309-10 (1979); Gordon v. Commissioners of St. Michaels, 270 Md. 128, 136 (1976); Hewitt v. County Commissioners of Baltimore County, 195 Md. 348, 353-54 (1949). In the case sub judice, the basic zoning power is delineated in BCZR § 1A01, which established a R.C.2 agricultural zone "in order to foster conditions favorable to a continued agricultural use." BCZR § 1A01.1.B. Pursuant to this zoning ordinance, the legislature identified various "preferred use[s] permitted as of right" and nonagricultural uses in which a landowner may engage by special exception. The pertinent uses permitted by special exception are "camps, including day camps" and "churches or other buildings for religious worship." BCZR § 1A01.2.C.4. and 6.

In Schultz v. Pritts, 291 Md. 1 (1981), the Court of Appeals explained the general significance of special exception status:

The special exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid. The special exception use is a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses which the legislature has determined to be permissible absent any factor or circumstance negating the presumption. The duties given the Board are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the plan.²

291 Md. at 11 (emphasis in original).

²In the instant case, the zoning regulations provide specific guidance in assessing adverse effects of the special exception use on the surrounding area. Section C of BCZR § 1A01.A permits exceptional use only if it "would not be detrimental to the primary agricultural uses in its vicinity." Section 502.1 of the BCZR expands upon this general requirement, prohibiting the approval of a petition for special exception if any of the following adverse effects should occur:

- a. Be detrimental to the health, safety, or general welfare of the locality involved;
- b. Tend to create congestion in roads, streets or alleys therein;

(cont'd)

Following the court's general guidelines, the Zoning Commissioner and the Board possessed the power to grant special exceptions in R.C.2. zones only for the uses that BCZR § 1A01.2.C. enumerates. This ordinance is written

2 cont'd.

- c. Create a potential hazard from fire, panic or other dangers;
- d. Tend to overcrowd land and cause undue concentration of population;
- e. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;
- f. Interfere with adequate light and air;
- g. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; nor
- h. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations.

Because we hold that Beachmont's proposed uses are not covered under the special exception section of the ordinance, we find it unnecessary to address the factual issue of whether appellee complied with these requirements by presenting sufficient evidence to demonstrate that the proposed uses would not adversely affect the surrounding area.

in the affirmative; unless explicitly stated as permitted by special exception or as a matter of right, the use is prohibited. Kowalski v. Lamar, 25 Md. App. 493, 498 (1975) (ruling that "[a]ny use other than those permitted and being carried on as of right or by special exception is prohibited"); see also Town of Harvard v. Main, 275 N.E.2d 347, 349-50 (Mass.1971); Williams v. City of Bloomington, McLean County, 247 N.E.2d 446, 449-50 (Ill.App.1969); Samsa v. Heck, 234 N.E.2d 312, 315-16 (Ohio App. 1967); Gada v. Zoning Board of Appeals of the Town of East Lyme, 193 A. 2d 502, 503 (Conn. 1963); Gordon v. Zoning Board of the City of Stamford, 145 A. 2d 746, 750 (Conn. 1958); Silver v. Zoning Board of Adjustment, 112 A.2d 84, 86-87 (Penn. 1955); City of Warwick v. Campbell, 107 A. 2d 334, 336-37 (R.I. 1954); City of Knoxville v. Brown, 260 S.W.2d 264, 267 (Tenn. 1953); Dolan v. DeCapua, 80 A.2d 655, 659 (N.J.Super.1951); Jones v. Robertson, 180 P.2d 929, 931 (Cal.App. 1947).

Here, Beachmont proposes to construct on the subject property a multipurpose activities building containing a gymnasium and dining facility; three dormitory lodges, each housing sixty people; three primitive-style cabins, each holding twenty to thirty people; a staff house; director's house; and bath housing

and various recreational improvements such as a volleyball court and horseshoe pit. We hold that these uses do not fall within the ambit of any of the enumerated special exceptions. Clearly, these buildings are not "churches or other buildings of religious worship." BCZR § 1A01.2.C.6.

Our interpretation of BCZR § 1A01.2.C is supported by the legislative history of the zoning ordinance. The type of structures requested resemble more closely "community buildings... of a civic, social, recreational, or educational nature." Although such uses were included in the 1954 version of the zoning ordinance, see Bill No. 98-75, the legislature deleted them on October 15, 1975 pursuant to Bill No. 178-79. At present these community building uses are permitted by special exception only in R.C.3 and 4 zones. See Bill No. 98-75. Including these uses as permissible in R.C.3 and 4 zones is strong proof that the legislature intended to exclude them from the R.C.2 zone. Parish of Jefferson v. Carl, 195 So.2d 401, 402 (La.Ct.App. 1967) (holding that where a zoning ordinance expressly permits "public schools, and educational institutions having a curriculum the same as that ordinarily given in public schools in R-1 districts, and permits nursery schools in R-3 districts, by inference nursery schools are prohibited in R-1 districts).

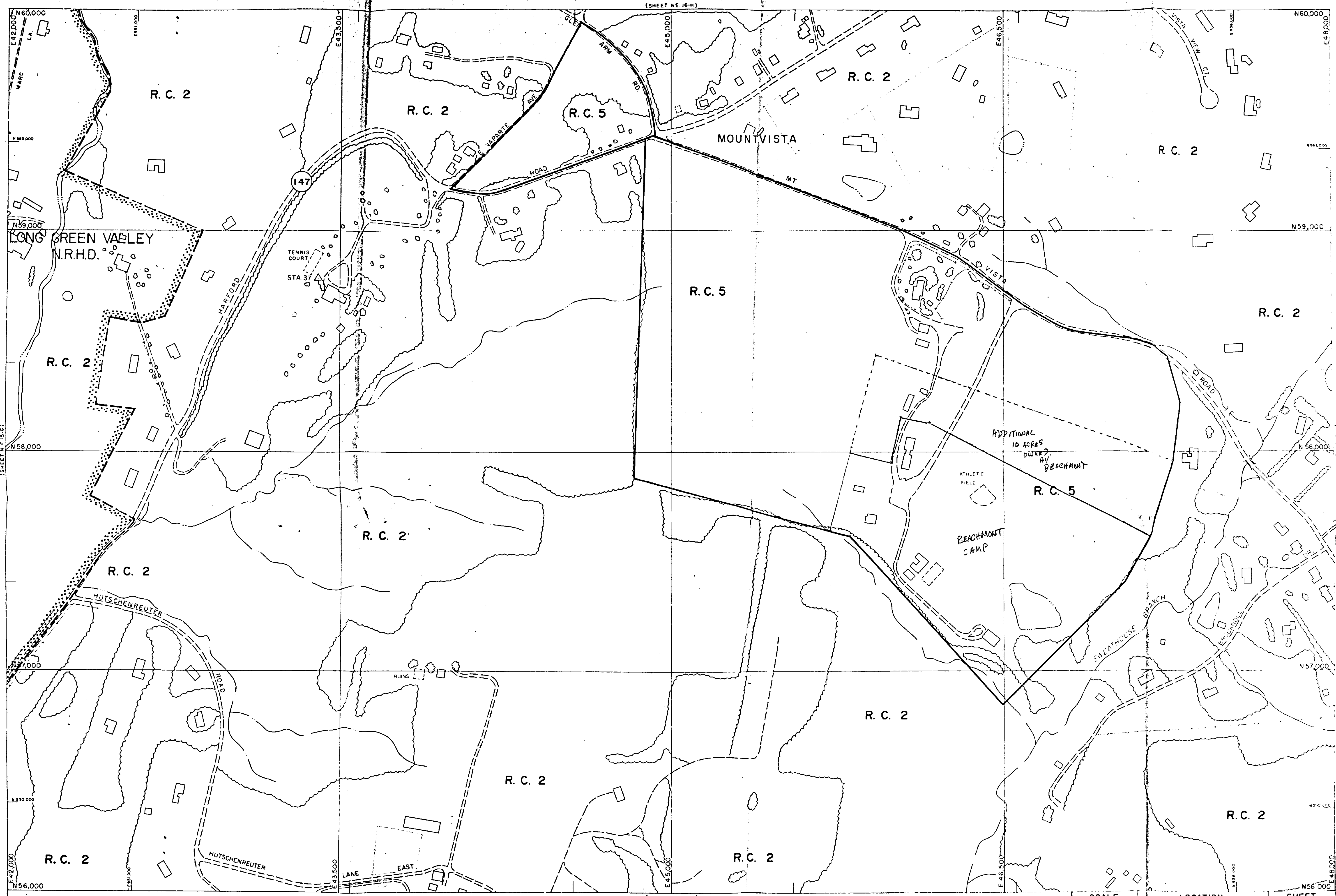
Accordingly, we hold that the Zoning Commissioner and the Board of Appeals lacked the authority under BCZR § 1A01.2.C to grant the uses that Beachmont requested. Without the necessary authority, the granting of the special exception to appellee was invalid and thus devoid of all legal effect.

JUDGMENT REVERSED;
COSTS TO BE PAID BY
APPELLEE.

RECEIVED

JUL 9 1987

WHITEHOUSE DISTRICT COURT
THOMAS & JOHNSON



Q-NW Q-NE
UU-SW UU-SE

1988 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 13, 1988

Bill Nos. 144-88, 145-88, 146-88, 147-88, 148-88, 149-88, 150-88

Chairman, County Council

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP

SCALE
1" = 200' ±
DATE
OF
PHOTOGRAPHY
JANUARY
1986

LOCATION
MOUNTVISTA

SHEET
N. E.
15-H

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210